

**BOARD OF ENVIRONMENTAL PROTECTION**  
**Meeting Minutes**

October 7, 2004

A meeting of the Board of Environmental Protection was held on Thursday, October 7, 2004, at the Holiday Inn / Ground Round in Augusta, Maine. Richard Wardwell, Chair, called the meeting to order at 12:00 – noon with the following individuals present:

**Board:** Ernest Hilton, Nancy Anderson, Irving Faunce, Donald Guimond, Virginia Plummer, Richard Wardwell, Jean T. Wilkinson, Nancy Ziegler and Matt Scott

|                      |                                  |               |
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| <b><u>Staff:</u></b> | Bureau of Air Quality            | Ron Severance |
|                      | Bureau of Land and Water Quality | Pam Parker    |
|                      | Bureau of Land and Water Quality | Mike Mullen   |

**Others:** David Littell, Deputy Commissioner  
Peggy Bensinger, Assistant Attorney General  
Terry Hanson, Administrative Assistant  
Cynthia Bertocci, Executive Analyst

***(Meeting adjourned at approximately 5:00 p.m.)***

**I. DEPARTMENTAL**

**A. COMMISSIONER'S COMMENTS:** Deputy Commissioner David Littell reported the following:

Budget: The Department has convened a stakeholder group comprised of fee payers, industries, municipal and environmental group representatives to develop a plan to address the air and water programs' funding shortfall. Revenue projections confirm that this budget shortfall will continue to increase beyond the next biennium. The Department is currently reviewing feedback from last week's stakeholder meeting. The Department is developing a plan to avoid staffing cuts to both programs. The next biennium shortfall is currently estimated at 3 million dollars.

Response Action: The Department conducted a response action in the matter of LIN-COR Environmental. Information provided to the Department prior to today's meeting necessitated immediate response at the site to remove the barrels of hazardous material. As a result of that action, Lin-Cor and the Department requested a continuance of the Board's hearing on Lin-Cor's appeal of the Hazardous Waste Compliance Order which was scheduled for today.

Steamship Navigation: Deputy Commissioner Littell followed up with a response to a recent email from Board member Mr. Faunce regarding a press story about Steamship Navigation and Mr. Dunican, the owners of the R&D Outfitters rifle range in Warren. Steamship Navigation and the Dunicans prevailed in court with regard to their suit against Camden National Bank for breach of contract and were awarded 1.5 million dollars. The Department is working with the Attorney General's Office to take necessary steps to secure some of these funds to eliminate the fire danger and remediate the Warren site.

Diesel Bus Program: EPA Administrator visited Maine on September 22<sup>nd</sup> to highlight the diesel bus program. Environmental groups used the opportunity to meet with him to ask what actions EPA is going to take to address the problem of mercury discharges from coal-fired plants.

New Source Review: The Inspector General issued report that looked into the new source review cases against mid-west and southern coal-fired utility plant. The report indicates that EPA's pending rules will make it more difficult to enforce the new rules contrary to EPA's assertion that the rules will not affect the on-going enforcement cases.

**B. CHAIRMAN'S COMMENTS: NONE**

Today's schedule is challenging with several items scheduled this afternoon. The parties in the LIN-COR Environmental compliance order matter requested a continuance of the hearing that was scheduled for this morning to pursue negotiations. Given the timing of that request, we were unable to reschedule other matters on today's agenda for the morning. Consequently, we had a late start time and will need to work to finish up by 5:00 this afternoon.

**C. EXECUTIVE ANALYST COMMENTS:**

Reminder that the October 21<sup>st</sup> Board meeting will be held at the Black Bear Inn, Orono starting at 9:00a.m.

The pre-filed direct testimony in the matter of the application by the Department of Inland Fisheries and Wildlife for a boat ramp at Mere Point is available today for you to review. The hearing is November 17 – 18, 2004 in Brunswick. The parties do not object to staff conducting a site visit for two Board members that did not participate in the previous site visit.

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|--------------------------------|----------|
| <b>D. BOARD CALENDAR:</b>      | Reviewed |
| <b>E. DEPARTMENTAL ORDERS:</b> | Reviewed |
| <b>F. EXECUTIVE SESSION:</b>   | None     |

## **II CONSENT AGENDA ITEMS**

The Board voted (9-0-0-0) to approve agenda items 1, 2, 3, 4, 5, 6, 7, 8 and 9 as follows:

1. GREENVILLE STEAM COMPANY, Greenville Junction – Administrative Consent Agreement (BAQ)
2. PERCY HARRIS d/b/a AAA INTERSTATE SEPTIC TANK SERVICE, New Sharon – Administrative Consent Agreement and Enforcement Order (BRWM)
3. R. ROLFE CORPORATION, INC., Bridgton – Administrative Consent Agreement (BLWQ – Land)
4. DEVON KIRKPATRICK & JERILYN KIRKPATRICK, Camden – Administrative Consent Agreement (BLWQ – Land)
5. FIRST STEP LAND DEVELOPMENT INC., Kittery – Administrative Consent Agreement and Enforcement Order (BLWQ – Land)
6. MARK TALTY, Knox – Administrative Consent Agreement (BLWQ – Land)
7. ROBERT EISENBERG and SHORELINE BUILDERS, LTD., Kennebunkport – Administrative Consent Agreement (BLWQ – Land)
8. GLM ASSOCIATES, INC., South Portland – Administrative Consent Agreement and Enforcement Order (BLWQ – Land)
9. ERIC FERNANDES d/b/a FERNADES AND SONS LANDSCAPING and JOYCE HEMENWAY BROWN, Kittery – Administrative Consent Agreement and Enforcement Order (BLWQ – Land)

*Board members Ernest Hilton, Nancy Anderson, Irving Faunce, Donald Guimond, Virginia Plummer, Richard Wardwell, Jean T. Wilkinson, Nancy Ziegler and Matt Scott voted to support the motion.*

## **III. Regular Agenda**

1. CHAPTER 596, OVERBOARD DISCHARGES – LICENSING AND ABANDONMENT / AMENDMENTS (adoption\*)  
Staff: Pamela Parker, Bureau of Land and Water Quality

The Board voted (9-0-0-0) to adopt amendments to Chapter 596, Overboard Discharges Licensing and Abandonment as presented. The vote was taken pursuant to 38 M.R.S.A. Section 341-D, 413(3), 414(3-A), 414-A(1)(B), 464(4)(A), 464(4)(G), 464(7) and 464(8).

*Board members Ernest Hilton, Nancy Anderson, Irving Faunce, Donald Guimond, Virginia Plummer, Richard Wardwell, Jean T. Wilkinson, Nancy Ziegler and Matt Scott supported the motion.*

## **BOARD RECONVENED AT 1:00 TO CONDUCT PUBLIC HEARINGS:**

- [1] Chapter 127, New Motor Vehicle Emission Standards / Amendments: Zero Emission Vehicle Program
- [2] Chapter 127, New Motor Vehicle Emission Standards / Amendment: Heavy Duty Diesel

BOARD RESUMED REGULAR AGENDA IMMEDIATELY FOLLOWING THE PUBLIC HEARING

3. DAVID LASH / PRIVATE RECREATIONAL DOCK, MEDOMAK RIVER (appeal)  
Staff: Mike Mullen, Bureau of Land and Water Quality

The Board voted (7-1-0-1) on a motion to deny the appeal submitted by Kent A. Creamer, and Thomas and Geraldine Creamer and affirm the Commissioner's acceptance of PBR #34318 for construction of a private recreational pile supported pier on the Medomak River in Waldoboro. The vote was taken pursuant to 38 M.R.S.A. Sections 341-D and 344 and 06-096 CMR Chapters 2 and 305.

Board members Ernest Hilton, Nancy Anderson, Donald Guimond, Virginia Plummer, Richard Wardwell, Nancy Ziegler and Matt Scott voted to support the motion. Board member Jean T. Wilkinson voted opposed. Board member Irving Faunce was absent.

Next Regular Board Meeting – Thursday, October 21, 2004 – Black Bear Inn / Orono

**REVISED**  
**BOARD OF ENVIRONMENTAL PROTECTION**  
Holiday Inn / Ground Round, Augusta Maine at 12:00 - noon  
October 7, 2004

**I. DEPARTMENTAL**

- A. Commissioner's Comments
- B. Chairman's Comments
- C. Executive Analyst Comments
- 001 D. Board Calendar
- E. Departmental Orders
- F. Executive Session

**ADMINISTRATIVE CONSENT AGREEMENT(S)**

Proposed Wastewater discharge enforcement resolution open for public comment  
Pursuant to 38 M.R.S.A. §347-A(6)

PORTLAND WATER DISTRICT, PORTLAND

(Staff: John Glowa, 287-7783)

*Tentatively scheduled for Board Action on November 17, 2004*

**II. CONSENT AGENDA ITEMS**

- 005 1. GREENVILLE STEAM COMPANY, Greenville Junction – Administrative Consent Agreement (BAQ)
- 009 2. PERCY HARRIS d/b/a AAA INTERSTATE SEPTIC TANK SERVICE, New Sharon – Administrative Consent Agreement and Enforcement Order (BLWQ – Land)
- 015 3. R. ROLFE CORPORATION, INC., Bridgton - Administrative Consent Agreement and Enforcement Order (BLWQ – Land)
- 019 4. DEVON KIRKPATRICK & JERILYN KIRKPATRICK, Camden - Administrative Consent Agreement (BLWQ - Land)
- 023 5. FIRST STEP LAND DEVELOPMENT INC., Kittery – Administrative Consent Agreement and Enforcement Order (BLWQ - Land)
- 027 6. MARK TALTY, Knox – Administrative Consent Agreement (BLWQ - Land)
- 031 7. ROBERT EISENBERG and SHORELINE BUILDERS, LTD., Kennebunkport – Administrative Consent Agreement (BLWQ – Land)
- 035 8. GLM ASSOCIATES, INC., South Portland – Administrative Consent Agreement and Enforcement Order (BLWQ – Land)
- 039 9. ERIC FERNANDES d/b/a FERNADES AND SONS LANDSCAPING and JOYCE HEMENWAY BROWN, Kittery – Administrative Consent Agreement and Enforcement Order (BLWQ – Land)

**III REGULAR AGENDA ITEMS**

- 043 1. CHAPTER 596, OVERBOARD DISCHARGES – LICENSING AND ABANDONMENT / AMENDMENTS (adoption\*)  
Staff: Pamela Parker, Bureau of Land and Water Quality

\*At its meeting the Board will accept additional public comment on a rule proposed for adoption. Additional public comment will be accepted only if it is directly related to comments received during the formal rulemaking comment period or is in response to proposed changes. Comments must be presented orally except by leave of the Chairman

1:00PM To Conduct Public Hearing:

Chapter 127, New Motor Vehicle Emission Standards Regulations / Amendments

Consideration of Regular Agenda Immediately Following The Public Hearing

- 153      2. DAVID LASH / PRIVATE RECREATIONAL DOCK, MEDOMAK RIVER (appeal)  
Staff: Mike Mullen, Bureau of Land and Water Quality

**NOTE:            Documentation for this item was printed in the August 19, 2004 Draft Packet  
                         – not duplicated in this packet**

*Next Regular Board Meeting – Thursday, October 21, 2004 – Black Bear Inn / Orono*